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1 producing separate financial statements and the like. It's a
2 little hard, the context of reorganization case with all the
3 extra professional expense being incurred to know exactly what
4 that number is, but fundamentally as to the operations of the
5 business, the merger has taken place.

6 Q In forming your valuation analysis, did you consider
7 future acquisitions that the debtors may pursue?

8 A We didn't assign any value for them, no.

9 Q And that would include the proposed APS acquisition?

10 A Correct.

11 Q And why did you not assign any value to that?

12 A Well, it's a gleam in the eye. The APS deal is
13 enthusiastically on the list of things that the management
14 wishes to accomplish. When they first brought us the deal, we
15 thought it was crazy. I think we've walked along with them
16 through their due diligence work and see -- understand what
17 they think the benefits will be, but there are two important
18 missing -- three important missing elements in that transaction
19 which is why we didn't quantify it.

20 Number one, will it take place at all? Omnicare has
21 already made offers for APS, they're well financed, they're
22 independent, and they're there lurking in the weeds, so it's
23 first of all by no means clear that Genesis will achieve the
24 acquisition. Secondly, and part of the same thing, since it
25 will be a bankruptcy auction, it's anybody's guess what the

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1 price is going to be at the end of that auction. It's
2 imaginable that that deal could be a death trap. I mean, the
3 price could go beyond levels of reason. We truly don't know
4 that.

5 And third, and finally, if you look at the enumerated
6 financial benefits of the acquisition in the case that the
7 management has made to the lenders, a substantial fraction of
8 it, from recollection, two-thirds or more, are economies that
9 are expected to be earned through consolidation. Those won't
10 come free, those won't come on the first day, and by the time
11 they come, there could be offsetting costs and the like, and
12 it's -- I mean, I think it's the management's best stab at
13 estimating, but it's a far cry from a known fact, and the other
14 two points that I've testified to, as well, namely, will there
15 be an acquisition and at what price.

16 Q Now, you've mentioned earlier that you'd seen some of the
17 other valuation reports. Specifically, have you reviewed a
18 valuation report prepared by Evercore Partners?

19 A Yes sir.

20 MR. ZELMANOVITZ: May I approach the witness, Your
21 Honor?

22 THE COURT: Sure.

23 MR. ZELMANOVITZ:: Your Honor, I know yesterday,
24 several documents were shown to witnesses, but not marked. I
25 assume that this will be marked by JMS's counsel, since this is

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1 their witness's document.

2 THE COURT: I believe we did mark that document. The
3 -- I believe we marked all of the --

4 MR. ZELMANOVITZ: Which -- the Evercore Corp. was not
5 marked, Your Honor.

6 THE COURT: Oh, the Ever -- oh. Yes, indeed, you're
7 right.

8 MR. ZELMANOVITZ: Now, I can mark it as a Mellon
9 document or we can just show it to the witness, and I can give
10 the Court a copy without marking it.

11 THE COURT: I assume that we will be marking it as we
12 continue with -- yes, so why don't we put a GMS marking on it,
13 if that's appropriate.

14 MR. PRIMP: That's fine by us, Your Honor. We were
15 going to wait and introduce it with our expert, but let's --

16 THE COURT: For identification at this point, GMS-8.

17 MR. PRIMP: I think that's correct, Your Honor.

18 THE COURT: All right.

19 (Brief pause)

20 BY MR. ZELMANOVITZ:

21 Q Mr. Schulte, I place in front of you what has now been
22 marked as GMS-8.

23 MR. ZELMANOVITZ: And Your Honor, actually, before I
24 get to this, I'd like to move for the admission of Mellon
25 Exhibits 1 and 2 at this time.

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1 THE COURT: In the absence of objection, they may be
2 -- any problem? All right.

3 BY MR. ZELMANOVITZ:

4 Q Mr. Schulte, referring to what has been marked as GMS
5 Exhibit 8 --

6 A Yes sir.

7 Q Is this the Evercore Partners report that you reviewed?

8 A Yes, it is.

9 Q It's clear from your testimony from your report that you
10 differ with Evercore Partners with respect to multiples and
11 valuations and the like, but I would just like you to refer,
12 and I'd like the Court to refer to page 25 of the Evercore
13 report. At the same time --

14 MR. ZELMANOVITZ: Your Honor, may I approach the
15 witness?

16 (Brief pause)

17 BY MR. ZELMANOVITZ:

18 Q Mr. Schulte, I have placed in front of you a document
19 which has been marked as Mellon Exhibit 3.

20 A Yes sir.

21 Q Can you tell us what that document is?

22 A Yes. The -- my colleagues and I, in reviewing the
23 Evercore report, had some disagreements with it, and we created
24 this exhibit to focus the points of difference as regards
25 recovery so that what it is is the Evercore numbers on page 25,

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1 which is their valuation, the far right-hand column on page 25
2 of their report brought down to a claim recovery amount by the
3 senior lenders, and we have a corrected column which lays out
4 the things that we think are just errors, and not so much
5 judgment call disagreements. It's just arithmetic mistakes
6 that produced a somewhat different result based upon the
7 multiples they chose with which we disagree, but we didn't
8 touch them.

9 Q And can you go through with us those errors that you've
10 just referred to?

11 A Yes sir. Well, there are really -- there are really four
12 of them. One is an error against the bank's interest, and the
13 other three are errors that we think favor a different answer
14 from the bank's perspective. First of all, the driving number
15 evaluation on the page, Evercore uses a 9.4 multiple which
16 purports to be sort of a current period EBITDA. It's computed
17 based upon the estimated 2001 earnings of the universe of
18 comparable companies.

19 Taking into account what I testified to before, which
20 is the importance of matching the time period with the multiple
21 from which it is derived in making an application of that
22 multiple to come up with some conclusion, one wants to use the
23 current period year earnings for Genesis and Multicare if one
24 is using a multiple derived their way, which is not trailing 12
25 months but current period.

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1 They can -- computed a run rate of 220 million.
2 That's not a number that reflects this year's earnings. That's
3 a number that's a synthesized year, if you will. It's a year
4 that will never be. It's an imaginary 12 months taking today's
5 reimbursement levels, exploiting it to 12 months without,
6 perhaps, future costs and a lot of other things.

7 The earnings base from which it was computed for the
8 comparable companies is estimated 2001 earnings. On that
9 basis, for Genesis/Multicare combined, the earnings numbered
10 215 million. This is in a year that ends four weeks from now.
11 It's 215 million, not 220 million. That provides a valuation
12 difference at their multiple of \$47 million. That's the first
13 correction.

14 Secondly, from an enterprise value, one deducts the
15 pro forma debt and preferred stock in arriving at a valuation
16 of the pro forma common equity. Evercore saw \$25 million in
17 Multicare of cash and reduced the pro forma indebtedness by
18 that, a matter of surplus cash, which would be the right thing
19 to do if that cash were to be left in the company. However, in
20 the plan of reorganization, that cash is, in fact, distributed
21 to Multicare creditors, and so that's a \$25 million further
22 deduction that should be made from enterprise value. So, our
23 adjustment to their equity value, using their multiple would be
24 a billion 361.

25 Then, there's another -- another issue that they

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1 don't quantify which is that the junior classes in both Genesis
2 and Multicare pursuant to the plan received warrants to
3 purchase common stock, and those warrants are at the plan of
4 reorganization value per share. At these levels of valuation
5 with which, as I've said, we don't fully agree, those warrants
6 would be in the money. They're only one year long, and so what
7 one ought to do is to treat those warrants as exorcized because
8 they will be worth more than the cost of exorcize.

9 So, we factor in the warrant proceeds. We don't
10 involve the fancy model building warrant valuation. Instead,
11 this is just a simple deal that if the company, in fact, is
12 worth in its common equity a billion, 361 million dollars,
13 those warrants are in the money. They will be exorcized which
14 produces for the company \$92.7 million of cash, and then adds
15 to the companies outstanding shares four and a half million
16 shares.

17 So, we go ahead and make those adjustments, as well,
18 giving a resulting adjusted equity value of 45 million 559
19 which -- I'm sorry, of a billion, 454, which divided by the new
20 number of shares produces a value per share of \$31.92, rather
21 than the conclusion of \$34.96.

22 If you run that through the distribution summary,
23 taking into account this last correction is taking into account
24 the extra post petition adequate protection payments that the
25 lenders have received, the lender recovery turns out to be 99

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1 cents.

2 Q Including post petition interest.

3 A Including post petition interest. In the Evercore work
4 there was \$130 million recognized as accrued interest at post
5 petition, and we take that into account, and so with interest
6 on their valuation number, it's far higher than ours. You come
7 up with a 99 cents recovery.

8 Q And in fact, you gave them credit for the \$18 million in
9 additional adequate protection payments.

10 A Yes. We've changed the adequate protection payments from
11 196 million in their report to 214 which counts in the extra
12 two months of adequate protection.

13 MR. ZELMANOVITZ: Your Honor, I'd like to move for
14 the admission of this exhibit.

15 THE COURT: Without opposition, Mellon-3 into
16 evidence.

17 MR. ZELMANOVITZ: Thank you. Your Honor, at this
18 time, I have no further questions.

19 THE COURT: All right. Cross-examine. Do you need
20 more water, sir?

21 THE WITNESS: I'd love it. Thank you.

22 MR. KINZEY: You need someone to carry your papers?

23 MR. ZELMANOVITZ: I know. I wasn't expecting all
24 these exhibits.

25 MR. KINZEY: For the record, again, I'm John Kinzey,

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1 representing GMS.

2 CROSS-EXAMINATION

3 BY MR. KINZEY:

4 Q Mr. Schulte, I'm not going to ask you to repeat the
5 voluminous testimony you've already given, but I just want to
6 try to focus in on a few points. So, if I jump around a little
7 bit, you'll excuse me for that.

8 A Fine. Thank you.

9 Q Let me talk, first, about your comparable company
10 analysis.

11 A Okay.

12 Q Did you review the reports done by UBS and CS First
13 Boston?

14 A Very late in the game, we got them last week.

15 Q Okay. How does their comparable company analysis compare
16 to yours in methodology?

17 A Well, it's facially identical. There are two important
18 differences, I would say. The answers differ a little bit. I
19 mean, the quantitative answers are all in the same kind of
20 range. One big difference is they all use forward earnings
21 rather than trailing 12 month earnings, and I've talked some
22 about that. We can go back if you want.

23 And the second big difference is they use a universe
24 of three comparable public companies and we use more.

25 Q Okay. But you -- I know you didn't use the methodology,

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1 but would you agree that using a looking forward earnings is a
2 recognized way of estimating value in a comparable company
3 analysis?

4 A It is an aspect of it, it's not the only way to travel, I
5 guess.

6 Q But you're not saying -- saying their work is worthless
7 because they use it?

8 A Oh no, no, no, not at all. I think that the -- the price
9 that one pays to do it that way is you get a smaller universe
10 of data, and it makes the statistical fit harder to come by.

11 Q Okay. And would I be playing the role of devil's advocate
12 correctly if I said on their behalf what you're trying to value
13 is the future so you have the advantage of looking at projected
14 earnings, as opposed to --

15 A Oh, yes. As I said before, the difficulty in this
16 analysis is all that matters is the future and all you know is
17 the past.

18 Q Okay. And they -- to rely on the future, they look at
19 estimates prepared by various stock analysts, is that right?

20 A That is correct.

21 Q And there just isn't that type of information available,
22 the three of the companies you were looking at.

23 A That is correct.

24 Q So, that's why you chose the different values.

25 A It was their motivation, correct.

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1 Q Okay. And in the process of this, you have to use some
2 estimate of what the multiples are to be applied to the
3 comparable companies' earnings, right?

4 A Yes. The data are not self-explanatory, is that what you
5 mean?

6 Q Yes.

7 A Yes.

8 Q And I think you've quite openly put it you're not going to
9 use a Ouija Board to do that.

10 A A Ouija Board is not the best idea.

11 Q But would you agree with me that there is some subjective
12 element of judgment involved in that, that you can't derive the
13 appropriate multiple just from a mathematical formula?

14 A It is -- it's a piece of analysis, and it's not rocket
15 science type analysis. It is unavoidably judgmental which is
16 again, why we chose to have a broader array of data from which
17 to work, but it is unavoidably judgmental.

18 Q And is it my -- is it fair to say that the -- if you have
19 to choose a single multiple for a company, it's a -- one in
20 which reasonable minds could differ?

21 A Oh, sure. Well, in the trading market for securities, for
22 every buyer there is a seller. Someone thinks it's worth
23 owning and someone is glad to be rid of it, so, it --
24 absolutely.

25 Q Okay. And that's one of the reasons you use a range, is

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1 that correct?

2 A Yes.

3 Q Somewhere in that range, you hope you capture the exact
4 number.

5 A Yes. Fervently hope.

6 Q Okay. But it -- in any event, even as to the range, I
7 would -- would you say that reasonable amounts could differ on
8 exactly what the upper end and what the lower end should be?

9 A Well, I think this is -- I use the analogy of navigation.
10 I think this is navigation with the benefit of tools. This is
11 not navigation in fog with no compass. So, I want to be
12 careful, you know, that this is about, you know, I don't know
13 anything about art, but I know what I like, or there are lots
14 of similar efforts.

15 Q You know it when you see it, that kind of thing.

16 A That kind of -- exactly. It's a familiar line.

17 Q You didn't author that, by the way, did you?

18 A No. No. No, although you may -- you may remember the
19 dissent in U.S. against Krass, in which he wrote, the Court
20 today holds that some poor are too poor even to go bankrupt.

21 The -- it isn't -- that would take us in the
22 direction of the Ouija Board, of kind of anything goes, what
23 the hell, we don't know the future. Well, then, what's the
24 point of any of this. But it is absolutely true that
25 reasonable people differ. It's absolutely true that the ranges

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1 are judgmental. I think, however, that one can talk
2 intelligently about it, and it isn't -- it isn't anything goes.

3 Q Oh, no. I didn't mean to suggest that, and I certainly
4 understand that you've done the best job you could of coming to
5 the -- is the best number you can, but I just wanted to
6 establish that other experts can look at things a little bit
7 different and come to a different conclusion.

8 A Yes.

9 Q And it is particularly difficult in the context of a
10 bankrupt company to come up with an appropriate valuation?

11 A I don't think so. I think it's particularly difficult in
12 the context of a long term care company because of the profit
13 dynamics that we've heard so much about. I don't think the
14 fact of a company coming out of Chapter 11, factually in a way
15 is the cleanest kind of company to evaluate because all the
16 trouble has been aired. I don't think the Chapter 11 mystery
17 is all that significant.

18 Q It's more --

19 A I think on the cost of equity, when the stock hasn't been
20 trading and it's an industry that gone like this, that's a
21 little tough. And we have already talked about why that --
22 that component of discounted cash flow is dicey, but no, I
23 don't think it's conspicuously harder because of Chapter 11.

24 Q Okay. But in this particular case, the vagaries of the
25 healthcare industry in producing uncertainties --

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1 A It makes this one difficult.

2 Q And I think there's a particular difficulty, you
3 testified, with respect to -- to NeighborCare because of the
4 lack of comparables and the uncertainty about whether some of
5 its business will continue?

6 A NeighborCare has very few -- has relatively few
7 comparables.

8 Q Let me ask you this. We did talk about the -- a little
9 bit about the APS acquisition, and you didn't include any
10 figure or any value for the APS acquisition in your report,
11 that's correct?

12 A Correct.

13 Q And nothing for the other acquisitions.

14 A Correct.

15 Q Do you know whether prior to bankruptcy Genesis had a
16 history of making acquisitions?

17 A Yes. The one I -- the one I read most about is the
18 Multicare acquisition, but I think the company was built with a
19 series of acquisitions, yes.

20 Q Do you know whether there are -- might be attractive
21 merger candidates out there for GMS coming out of bankruptcy,
22 given the state of the industry?

23 A Not for GMS.

24 Q I'm sorry, no, we've already found that out, but Genesis

25 --

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1 A GMS, to my knowledge, is not coming out of --

2 Q I'm sorry -- I'm sorry, for Genesis coming out of
3 bankruptcy.

4 A I haven't looked at that. The industry -- it has been
5 testified, the industry has gone through a consolidation. It's
6 not beyond the realm of possibility there will be future
7 mergers, but I don't have an opinion about that.

8 Q If I could, I'm going to go very quickly, Mr. Schulte, for
9 some of the exhibits I showed you at your deposition, and if
10 it's a preparatory matter, I'm going to do the same sort of
11 thing I did there --

12 A Okay.

13 Q -- which was essentially just try to get you to identify
14 some number, for us, but recognizing that your company wasn't
15 the source for them?

16 A Yep.

17 MR. KINZEY: Okay. Let me ask, if we can first mark
18 -- let me approach, Your Honor --

19 THE COURT: Yes.

20 MR. KINZEY: -- as GMS Exhibit A, what was previously
21 marked --

22 THE COURT: It'll be 9.

23 BY MR. KINZEY:

24 Q I'm sorry, 9. What was previously marked as Exhibit 3 at
25 your deposition.

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1 A Thank you.

2 (Brief pause)

3 BY MR. KINZEY:

4 Q Okay. Do you recognize that document?

5 A Yes, I recognize this or some version of it. This says
6 draft, I'm not sure if I've seen this very draft or not. But
7 yes, this is a presentation or draft of a presentation that we
8 were -- we and two of my partners were to make to the -- the
9 Steering Committee of Secured Lenders. I should point out that
10 it seems to be for a November 15 meeting. The number on the
11 lower left hand corner which says August 3, 2001 happens
12 because this was produced by some computer in which -- in which
13 it's instructed to date the document for the date at which it
14 was produced, and so --

15 Q That's the print date, not the production date.

16 A That's the print date, it's not the production date.

17 Q Okay. Would you look at the portion of this document that
18 deals with the APS proposed acquisition.

19 A Okay.

20 Q It's -- it starts at page 14 of the internal document
21 numbering.

22 A All right, I'm looking at page 14.

23 Q Okay. And could you tell me why that page and the three
24 following page -- I'm sorry, the two following pages were
25 included in this exhibit?

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1 A Yes. The -- at this point, the management had identified
2 APS as a transaction that was in the debtor's interest. We
3 were advising a bank group that was still licking its wounds
4 from the last deal, and asked us with some mixture of
5 trepidation and dismay, a Chapter 11 company making another
6 acquisition? What is this? To look at it and to advise them
7 about it, and this is the -- the far -- maybe our first
8 response to the lenders about the potential APS transaction.

9 Q Okay. And if you'd look at the second page of that part
10 of the exhibit, page 15?

11 A Right.

12 Q There is a arrow point incremental EBITDA for company --

13 A Yeah.

14 Q Is that the company's estimate of the additional EBITDA it
15 would achieve as a result of this --

16 A Yes, that would -- yes sir, that was their then estimate
17 as conveyed to us which we are, in turn, reciting back to the
18 lenders. An important footnote is subject to due diligence
19 confirmation which we had not done.

20 Q And have not done at this point, correct?

21 A No. That's correct, not any primary due diligence.

22 Q But that does show, at least, in the company's view, that
23 this would produce an extra --

24 A That's correct.

25 Q -- 33.3 million EBITDA?

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1 A Also, the estimated purchase price --

2 Q Right.

3 A -- is the company's best guess at that point about what it
4 would take to make the acquisition.

5 Q Right.

6 MR. KINZEY: If I may approach, I'd like to mark --
7 oh, wait, I'll move for the admission of that exhibit 9 into
8 evidence, Your Honor.

9 THE COURT: Absent objection? All right.

10 MR. KINZEY: And if I may, I'd like to show you a
11 document that was previously marked as Exhibit 4 at your
12 deposition. Your Honor, I'd like to mark this.

13 (Brief pause)

14 BY MR. KINZEY:

15 Q I'm not so concerned with the cover page of that document
16 because it's only stapled there because that's the way it was
17 produced to us, but would you look at the memorandum following
18 that --

19 A Yes.

20 Q -- dated June 7.

21 A Right.

22 Q And could you just tell me -- identify that for me for the
23 record.

24 A Yes. This is a memorandum that we prepared at the request
25 of Mellon Bank. I think the occasion was they were being

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1 visited by bank examiners who were looking into however they
2 were carrying the loan or whatever, and the -- we had already
3 seen the -- the plan was on file, that we had seen a draft of
4 it, and the question the examiners put was, well, how can the
5 valuations be what they are in the plan, so Mellon asked us to
6 explain the document they were then going to pass along to the
7 examiners, how such a thing could be.

8 Q Okay. And all I want to ask you about this document is if
9 you look at last paragraph on the first page, there's a
10 reference to a combined 2001 run right of EBITDA of 222
11 million?

12 A Right. Right.

13 Q Was that -- was that a num -- a number for EBITDA which
14 the company gave you some time around June 7, 2001?

15 A I can't say. It may have been. I can't say for sure when
16 we got that number. What we're doing in this part of our
17 memorandum is summarizing for the Mellon Bank what the
18 company's planned valuation was all about.

19 Q Okay. Well, if you used that number in this memorandum,
20 was that your view of what the company's current estimate of
21 EBITDA was?

22 A No, I don't -- I think that to the extent we had an idea
23 about the run but it was more like 220. That begs the question
24 of whether you use that number and what multiple you apply it
25 to.

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1 Q Okay. But this was information you got from the company
2 sometime in preparation of this.

3 A Yeah, and valuation that was in the company's draft of
4 their plan of reorganization or disclosure statement, I should
5 say.

6 MR. KINZEY: And Your Honor, we'd move the admission
7 of that as Exhibit 10.

8 THE COURT: Absent objection, it may be entered.

9 MR. KINZEY: Your Honor, I'd like to approach, I'd
10 like to have one more exhibit to share with you. It's -- we'll
11 mark this GMS-11. It was --

12 THE WITNESS: Do you want these back? Do you want
13 these back?

14 (Brief pause)

15 BY MR. KINZEY:

16 Q Yes sir. Do you recognize that document, Mr. Schulte?

17 A Yes, you showed this to me at my deposition. It wasn't
18 then familiar to me. I recognize the look of our work, and
19 sort of our computer output, and I certainly remember it from
20 your showing it to me last week.

21 Q Okay. Would -- that's got three different scenarios. I
22 only want to ask you about the third one on the last page.

23 A Okay. On the last page, it's headed, With APS and Bond
24 Holder Valuation.

25 Q Right. Can you tell me what that analysis is?

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1 A Yeah. This is -- this is a negotiation aid. At that
2 point, Houlihan, on behalf of the Genesis Unsecured Creditors
3 and Shannon, on behalf of the Multicare Unsecured creditors,
4 had come to the lenders dreaming dreams that never were, and
5 asking for a lot, which is, of course, what they're paid to do.
6 And we were in negotiation, and we were trying to make peace
7 and have a consensual plan come out of it, and so we were
8 trying one after another idea, and in this example, we -- we
9 tried to sort of hang them with their own nonsense, and see the
10 world through the eyes of the valuation that they were, in
11 fact, propounding to us. So, that's what this is.

12 Q Okay. And this, obviously, you don't agree with.

13 A Right, right.

14 Q But the assumptions are that the APS deal goes through?

15 A Oh, yes. I mean, in 8 and a half multiples, the APS deal,
16 we were -- again, what we were trying to do is say to them, if
17 it's so good, then if we give you this much, look how much it's
18 worth. That sort of rhetorical nonsense.

19 Q And what does this show about the recovery of the various
20 constituencies, again, assuming the assumptions are here which
21 we know you don't endorse.

22 A Well, I won't dignify that by -- without rephrasing the
23 answer, if you don't mind. What this says is, if all of those
24 things were true, including -- including -- including various
25 hypothetical things, then the bank recovery would be 103 cents

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1 without post petition interest, I think, would be there.

2 Q Have you seen the Houlihan report that's been prepared
3 this month in connection with this hearing?

4 A Yes. I think I saw it last week.

5 Q And do you know what multiple they ended up selecting in
6 that report?

7 A I don't recall.

8 Q Okay. Finally, let me just ask you one question about
9 Mellon Exhibit 3, which is your analysis of the Evercore
10 report, and just so I understand -- to make sure I understand
11 the methodology, you're assuming that 100 percent of the
12 warrants that'll be issued in connection with the plan will be
13 exorcized?

14 A Yes, that's right. The -- just going back to that. If
15 you take the Evercore valuation as written, and work it through
16 to value of the stock per share, it's \$34.96 per share. The
17 warrants are exorcizable, the number escapes me now, \$30 --
18 \$20.33 a share. The warrants have one year of life. There's
19 not a warrant holder who isn't on vacation, dead or in a coma
20 who would fail to exorcize when the warrants were \$15 more than
21 the exorcized price. Right?

22 Q Right. Absolutely.

23 A Sure.

24 Q I just want to make sure we understood the math. It's 100
25 percent exercise.

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1 A Yes.

2 Q Okay. And if I want to cross-examine you on that verb,
3 I'll find somebody in a coma.

4 A I'm afraid I can direct you to a place where we have some.

5 MR. KINZEY: Thank you, Mr. Schulte, that's all the
6 questions I have.

7 THE COURT: Any other cross?

8 MR. JENKINS: Yes, Your Honor.

9 (Brief pause)

10 CROSS-EXAMINATION

11 BY MR. JENKINS:

12 Q Good morning, Mr. Schulte. My name is David Jenkins, and
13 I represent Charles Grimes, as one of the objectors here.

14 A Good morning, sir.

15 MR. JENKINS: I would like to show you a document,
16 and Your Honor, I apologize, I did not know that Mr. Schulte
17 would be testifying, so I only have two copies of this
18 document. May I show him one --

19 THE COURT: Sure.

20 MR. JENKINS: -- and keep the other, and if it's
21 necessary to do so, we can copy them later.

22 Mr. Schulte, I'm showing you --

23 MR. ZELMANOVITZ: Your Honor, may I -- may I look
24 over counsel's shoulder, then, at the same time he's --

25 THE COURT: Indeed. Why don't you take a moment

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1 first to just glance, so that you're situated.

2 MR. JENKINS: I'll show it to counsel, Your Honor.

3 (Brief pause)

4 MR. ZELMANOVITZ: May I have a moment?

5 MR. STROCHAK: Perhaps if counsel could just describe
6 the document so we'd all have the benefit. That would be very
7 helpful, I think, Your Honor.

8 THE COURT: I think that would be helpful, yes.

9 MR. JENKINS: I was going to do so, Your Honor, when
10 I showed it to Mr. Schulte. It is a document, entitled Genesis
11 Health Ventures Restructuring Overview, bank meeting, January
12 30, 2001. The Bate stamp number that has been applied in this
13 case is CH, which I think stands for Chilmark Partners, 025755
14 through CH-025766.

15 THE COURT: All right. Please proceed.

16 MR. JENKINS: Thank you, Your Honor.

17 BY MR. JENKINS:

18 Q Mr. Schulte, I'm handing you the document that I just
19 described. Actually, the one I'm handing you has slightly
20 different Bate stamp numbers, but I believe it's the same
21 document. Could you take a look at this document, please, sir.

22 A Yes sir.

23 MR. ZELMANOVITZ: Your Honor, if they have different
24 Bate stamp numbers, there are many drafts of each one of these
25 presentations that were in the files we produced. I think it

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1 would be only right if we can, at least, check and verify that
2 the witness is looking at the same document as Mr. Jenkins is.

3 THE COURT: Then, let's have a reflection of exactly
4 what the witness is looking at in terms of the Bate stamp that
5 appears on the document that he is looking at.

6 MR. JENKINS: Thank you, Your Honor. Let me read
7 that into the record, please. I have only one question for him
8 on the document, and it's on -- and that paragraph is
9 identical. I checked that. The document I've handed to Mr.
10 Schulte is Bate stamp numbers GEN, which I believe is Genesis,
11 C00921 through 00933.

12 THE COURT: All right.

13 MR. JENKINS: Let me just inform counsel the
14 paragraph I'm going to look at so you can verify it's the same
15 thing.

16 (Brief pause)

17 BY MR. JENKINS:

18 Q Let me return to the --

19 A Yes sir.

20 Q Have you seen this document before?

21 A Yes, I probably have. Right.

22 Q This was a document prepared by Chilmark Partners, your
23 firm, correct?

24 A Yes, and the title says it was for the bank meeting on
25 January 30th, not steering committee, but the larger bank

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1 group.

2 Q All right. Did you have a role to play in the preparation
3 of this document?

4 A I'm sure I reviewed it at the time. I probably didn't
5 write the words.

6 Q All right. Could you turn to page two, sir, please?

7 A Yes, I have it.

8 Q And you'll see that there's a -- well, the title at the
9 very top is called Restructuring Overview, do you see that,
10 sir?

11 A I do.

12 Q And underneath that, reasons for Genesis and Multicare to
13 get out -- excuse me, to get out of bankruptcy. Do you see
14 that?

15 A Yes sir.

16 Q The first bullet point arrow, what have you, underneath
17 that says, "no compelling reason to be in Chapter 11 now, other
18 than compromising liabilities - this is the work of a plan of
19 reorganization." Do you see that, sir?

20 A I do.

21 Q All right. I'm using that as a focus for my questions,
22 Mr. Schulte. What reasons did you understand -- withdrawn.
23 It's a poor question. Why did Multicare initially go into
24 bankruptcy, Mr. Schulte?

25 A They -- my impression is, I wasn't involved at the time of

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1 the filing, but the companies were filed at the same time
2 because they had too much debt.

3 Q All right. And this was particularly true of Multicare,
4 correct?

5 A I don't know which was more bust than the other.

6 Q All right. In particular, if you can focus on the
7 subordinated debt of Multicare, to your understanding, it was
8 completely under water at the time of filing, correct?

9 A I think on both sides of house, the subordinated debt was
10 completely under water.

11 Q Right. It was your understanding, however, that between
12 Genesis and Multicare at the time of filing, Multicare was the
13 more serious financial situation, correct?

14 A I don't remember that we paid any systematic attention to
15 the condition of the debtors at the time of the filing. We
16 came along two or three months later, so I think I'd be
17 speculating to answer that.

18 Q All right. And your understanding as of January 30, 2001
19 was that there was no -- there was no reason at that time for
20 Genesis and Multicare to stay in bankruptcy other than to get
21 rid of its outstanding liabilities, correct?

22 A Well, right. There was no business need but for the fact
23 that the work of the plan of reorganization had to be
24 accomplished.

25 Q All right.

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1 (Brief pause)

2 MR. JENKINS: Your Honor, I may be through with Mr.
3 Schulte. Could I ask my client, Mr. Grimes, a question,
4 however?

5 THE COURT: Sure.

6 MR. JENKINS: Thank you.

7 (Brief pause)

8 MR. KINZEY: Your Honor, John Kinzey again, I have
9 apparently developed an annoying habit, but I believe I
10 neglected to move our exhibit 10 into evidence, so if I could
11 do that at this time. I believe I may be a candidate for a
12 Genesis treatment pretty soon.

13 MR. JENKINS: No objection.

14 THE COURT: Perhaps that was 11?

15 MR. KINZEY: Eleven. We were thrown off. I didn't
16 realize that everybody --

17 MR. ZELMANOVITZ: Your Honor, just to avoid having to
18 ask further questions, I think on number 11, if Your Honor
19 would note that the date there is August 3, 2001, and that's
20 the result of the same computer production as Mr. Schulte, I
21 think, testified to earlier.

22 THE COURT: All right.

23 MR. JENKINS: Your Honor, I have no further questions
24 of Mr. Schulte.

25 THE COURT: Do I understand that we're to mark this

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1 January 30, 2001 submission?

2 MR. JENKINS: I suppose for -- at least for record
3 purposes, we should do so as CG-5, Charles Grimes 5.

4 THE COURT: Actually, I only have two previous,
5 unless I'm missing something.

6 MR. JENKINS: Yes, indeed. Because we first Boston
7 cross-examination, I marked as both 3 and 4 together. They're
8 two documents that I marked. They were two research analysts.

9 THE COURT: All right. I'm sure the record will
10 establish that. For identification then, CG-5.

11 MR. JENKINS: Yes, ma'am, and during our case, I will
12 decide which of these I want to move into evidence, and we'll
13 see if their objections cover court rules.

14 THE COURT: All right.

15 MR. ZELMANOVITZ: I would just ask that counsel
16 provide us with a copy of whichever one he's going to, in fact,
17 move into evidence.

18 THE COURT: That's fine.

19 MR. JENKINS: Obviously, we will do so, Your Honor.
20 Thank you.

21 THE COURT: All right.

22 MR. JENKINS: Thank you, Mr. Schulte.

23 THE COURT: Any other questions, redirect or the
24 like?

25 (Brief pause)

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1 MS. MORRISON: Good morning, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. MORRISON:

4 Q Good morning, Mr. Schulte. My name is Susan Morrison, I
5 represent some tort claimants in this case, and you'll have to
6 excuse me, because I'm not a financial person so I may misstate
7 a question. I'm just going to ask you a few, and they're
8 pretty simple.

9 A Okay.

10 Q With regard to the comparable company analysis, you said
11 that there were not many other companies available to you. Why
12 did you not consider the data from Phar-America?

13 A I can't say. I don't know.

14 Q Do you know what Phar-America is?

15 A I do not.

16 Q Okay. Phar-America is one of the leading institutional
17 long term care pharmacies that's owned by Bergen-Brunswick. It
18 was acquired by Bergen-Brunswick in the last 18 months.

19 A Oh, the Bergen-Brunswick name is familiar. I can answer
20 that then.

21 Q Okay.

22 A Originally, when we started doing our valuation work, we
23 included Bergen-Brunswick as a comp -- comparable. But the
24 problem is I don't think they report Phar-America separately,
25 and Bergen-Brunswick is, itself, principally a drug wholesaler,

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1 and its business was too disparate to count it.

2 Q What about the acquisition within the last 18 months of
3 Phar-America which was publicly traded by Bergen-Brunswick?

4 A Yeah. I understand the question. I can't answer why --
5 why --

6 Q Are you --

7 A On that one, I'll say my colleagues chose to ignore it.

8 Q Okay. Are you aware that within the last 12 months that
9 Extended Care has sold homes in Florida to Tandem?

10 A No.

11 Q Are you aware that National Healthcare in the last 12
12 months has sold all of its 20 Florida facilities?

13 A No, but if I were aware of it, I would discount it because
14 Florida is a tough state for reimbursement. I would not regard
15 a Florida transaction as governing the full value of either
16 Genesis or Multicare.

17 Q But you didn't consider those transactions.

18 A Not specifically, no.

19 Q Okay. You testified earlier that it is your assumption
20 that the potential acquisition of APS by anybody is going to
21 occur by bankruptcy auction. What's the basis of that
22 assumption?

23 A Conversations between Genesis and the Mariner people,
24 their professional advisers, their counsel. There's a letter
25 of intent that's been signed. I think it's an agreed

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1 procedure, an understood procedure.

2 Q And the letter of intent has been signed between which
3 entities?

4 A Between Genesis and Mariner, I believe. I've not read it,
5 but I believe that's right.

6 Q And the letter of intent is relative to the acquisition by
7 Genesis of APS?

8 A Correct.

9 Q Okay. Do you know the date of that instrument?

10 A No. It would have been in the last 12 months, but I don't
11 have a specific --

12 Q And do you know the terms of that proposed sale?

13 A The contemplated price is what we have in here, 40
14 something million or \$50 million, but no, I've not read it. I
15 should simply limit my answer to saying I've not read it.

16 Q Okay. And you're not aware of any other similar letter of
17 intent in existence between Mariner and Omnicare, are you?

18 A Well, they couldn't have but one because there's bid
19 protection involved in the letter. The question that was put
20 to the secured lenders which came from the Mariner side is,
21 would Genesis like to step up to this price at which the
22 company will sign a letter, create bid protection, and you can
23 then be stalking horse for the auction is the way I've
24 repeatedly heard it characterized.

25 Q So, it's your testimony that Genesis is being used by

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Mariner as stalking horse?

2 A Well, I think that it's probably a valid effort by Mariner
3 to sell, and it's certainly a valid effort by Genesis to buy,
4 but bankruptcy auctions are inherently open. I don't know what
5 more to say about it than that.

6 Q Has your firm done any independent research as to whether
7 a Rule 9019 motion could be filed to approve --

8 A No.

9 Q -- the acquisition by Genesis of APS?

10 A No.

11 Q Are you aware that that type of Court approval has been
12 obtained by others seeking to buy assets out of bankruptcy?

13 MR. ZELMANOVITZ: Your Honor, objection.

14 THE COURT: Sustained. You're welcome to argue that
15 point.

16 MS. MORRISON: Okay.

17 BY MS. MORRISON:

18 Q You adjusted your figures for the potential loss of the
19 Mariner bids, is that correct?

20 THE COURT: I'm sorry. I missed the question.

21 BY MS. MORRISON:

22 Q I believe the witness testified that he had adjusted for
23 the potential loss of the Mariner bid, is that correct?

24 A It is not correct. I didn't testify to that. What I said
25 was that in evaluating the exit multiple, using discounted cash

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1 flow technology in evaluating the exit multiple to assign, we
2 took into account the perspective loss of a significant portion
3 of the Institutional Pharmacy cash flow, owing to the potential
4 loss of the Mariner business or repricing downward of the
5 Mariner business, but I -- we did not make any numeric
6 adjustment for that in the discounted cash flow work. Where we
7 depend upon the company's business plan, we implicitly take
8 into account whatever they had quantified for that event.

9 Q Okay. And you testified earlier that the exit multiple
10 determines the whole game, isn't that right?

11 A The exit multiple is a very big component of discounted
12 cash flow valuation.

13 Q So, you'd agree with me, wouldn't you, that it would be
14 premature to definitively quantify the exit multiple without
15 knowledge of what's going to happen in this APS transaction?

16 A No, I don't think that's -- that's what I would agree to
17 at all.

18 Q Don't you think that if Genesis is successful in acquiring
19 APS that the exit multiple would change?

20 A No. It could change downward if they overpay.

21 Q But it could change upward, isn't that correct?

22 A Yes, and we could all be hit by a meteor tomorrow or
23 Congress could decide to double reimbursement rates. The
24 future is wide open.

25 Q So, is it your testimony that -- that market analyses are

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1 useless?

2 A No. It's my testimony that valuations are conducted at a
3 point in time on then known truths.

4 Q All right. You used six companies in your comparative
5 analysis, and each of those six companies survive the effects
6 of the prospective payment system. What happened to Genesis?

7 A Well, one of them, Kindred, now, formerly Vencore Ventas,
8 has just finished its bankruptcy case. Another one, which is
9 -- I'll take a look to get the name right for you, Harborside
10 has bonds trading at 62 cents, and it's anybody's guess whether
11 they will miss the dogcatcher or not. At least, Beverly and
12 Manor Care, I don't enough -- and Manor Care has very low
13 leverage compared to the others, very high coverage of fixed
14 charges. Why Beverly has missed the dogcatcher and the extent
15 to which they have, they may have taken in private investment
16 or something, I just don't know.

17 Q Well, you've neglected to mention Extended Care.

18 A Extended Care is part of a bigger company. Extended Care
19 is owned by a Canadian company or it was owned by a company
20 which has Canadian nursing homes and owns a significant
21 interest in a life insurance company. So, that's -- that's a
22 different breed of cat.

23 Q Well, they own over 300 nursing homes --

24 A Yes.

25 Q -- in the United States, am I correct?

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1 A In the United States, as well, that's right.

2 Q And the data that you've included, does that include the
3 Canadian reimbursement information?

4 A No, we -- no, we made adjustments for that as best we
5 could. We've taken out the value of the life insurance
6 company, we tried to -- to separate out the earnings from the
7 U.S. and the earnings from Canada, so what's in here, as best
8 we could calculate it, was U.S. only, but if you ask the
9 question why has Extended Care avoided, which I thought, A, I
10 don't know for sure, but it's just a different animal. It's
11 not wholly responsive to the U.S. government repayment regime.

12 Q So, your comments earlier about the Canadian component and
13 the other issues relative to Extended Care of Canada are
14 irrelevant to the statistics that you've included in your
15 analysis?

16 A They've been -- yes, they've been washed out of the
17 statistics and our analysis, yes.

18 Q And you're aware, are you not, that in the Vencore, now
19 known as Kindred, reorganization, that Vencore had significant
20 Medicare fraud and reimbursement problems leading to their
21 Chapter 11 filing?

22 A I don't know about that.

23 Q You're not aware that -- of the settlement between Vencore
24 and the government?

25 A Correct.

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1 Q For Medicare reimbursement. Okay. So, the next question
2 is what happened to Genesis? Where did the money go?

3 A I'm not a good enough historian of these cases to answer
4 that question.

5 Q Well, you testified that history is -- is what you have
6 based -- or historical data is what you've based your analyses
7 on. Have you no opinion as to why Genesis is in the financial
8 situation that it's in today when five of its comparably
9 compared companies are not in the same situation?

10 A Oh, oh, I see what you're getting at. I don't think
11 you're right on the facts in asking that question, under the
12 impression that of eight publicly traded nursing home
13 companies, five have gone through Chapter 11 reorganization or
14 are still going through.

15 Q Well, we're only talking about the ones that --

16 A There are three --

17 Q -- are on your study, sir.

18 MR. ZELMANOVITZ: Your Honor, Your Honor, let --

19 THE COURT: One moment, please.

20 MR. ZELMANOVITZ: The witness isn't finished his
21 answer.

22 THE COURT: Indeed, and that was being done. Go
23 ahead.

24 MS. MORRISON: I apologize, Your Honor.

25 THE WITNESS: In -- for example, we didn't stress it

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1 from an valuation perspective, but in our -- well, maybe I just
2 reperched it from this last report. In an earlier version of
3 the work, we had included three bankrupt nursing home
4 companies. We looked at literally all the public ones we could
5 find. We excluded -- I guess what survived in this report is
6 just the non-bankrupt average. We excluded the bankrupt ones
7 from the analysis because the numbers were too dicey. Their
8 liabilities hadn't been framed out. They hadn't been through
9 disclosure statements yet, and it just wasn't trustworthy data,
10 but we looked at all of them, and most of them have gone
11 through Chapter 11. Genesis is one of -- see, the better
12 question is how have Beverly and Manor Care avoided it, rather
13 than why did it happen --

14 Q Like Extended Care and Harbor Care and Kindred. They've
15 all -- well, not Kindred but --

16 A Yeah, not Kindred, not the other three, but --

17 Q -- but five out of the six have avoided it, isn't that
18 correct?

19 A It's an argumentative question. I don't know the answer.

20 Q Okay. When were you -- when was your --

21 A Sorry.

22 Q Thank you for being the judge also.

23 THE COURT: I think I'll go home.

24 THE WITNESS: Sorry, counselor.

25 MR. WALSH: That was good. Objection sustained.

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THE WITNESS: That's sustained. Thank you.

2 BY MS. MORRISON:

3 Q Now, you made me lose my whole train of thought. I think
4 that was the intent. When was Chilmark Partners engaged by
5 Mellon Bank, first engaged?

6 A Approximately in August of 2000. Not by Mellon Bank, by
7 counsel.

8 Q By counsel. And your first engagement was in connection
9 with the valuation relative to the Chapter 11?

10 A There's was only one engagement letter that's ever been
11 signed, and it was a far broader mission than that. I think at
12 the start, it was principally advice to the lenders in the
13 conduct of negotiations toward a plan of reorganization, to
14 include valuation, capital structure planning and the other
15 things that we do.

16 Q Okay. Do you have any opinion as to where Genesis went
17 wrong in the context of its -- the operation of its business to
18 get it into the dire financial straits that it's in today?

19 A Other than what I've testified to, no, I think the
20 conspicuous common thread through all the Chapter 11 long term
21 care companies is the change in reimbursement rates. Plainly,
22 that didn't bankrupt 100 percent of the industry, so there are
23 other things to be discussed. I'm not knowledgeable enough to
24 answer your question better.

25 Q Are you aware -- I'm sorry, I didn't mean to speak over

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1 you. Are you aware of the government accounting report, dated
2 March of 2000, which indicates that reimbursement rates are not
3 the reason that the nursing home industry has filed for Chapter
4 11 protection?

5 A I read a GAO --

6 MR. STROCHAK: Your Honor, I think it's a --

7 THE COURT: One moment, please, sir.

8 MR. STROCHAK: Pardon me. I think it's a best
9 evidence objection. If he's going to be asked about the
10 report, I think he should --

11 MS. MORRISON: I just asked him if he was aware, Your
12 Honor, and he's an expert on these matters, so --

13 THE COURT: I'll allow it. Are you aware, sir?

14 THE WITNESS: I don't know the March report. I read
15 a September report, I thought, from the GAO on this subject.
16 It was pretty defensive about the role of the government and
17 far more accusatory about the role of the industry, but did
18 allow as how the transition from cost plus to perspective pay
19 and the transition to fixed rates had caught a number of
20 companies with costs above the average, in particular, those
21 companies that had a significant component of services, not
22 just hospitality, like respiratory and infusion therapy and --

23 BY MS. MORRISON:

24 Q A big discussion of therapy companies and the acquisition
25 by long term care companies of the full panoply of therapy

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services, correct?

A But the GAO -- yeah, the GAO report points the finger at reckless acquisition, at undisciplined spending. I mean, it's a, you know, it's a -- it is on the part of the government an apology for having largely bankrupted the industry.

Q Do you consider that Genesis is guilty of reckless acquisition in the context of the Multicare acquisition?

A No, I wouldn't use that -- hindsight is a wonderful thing.

Q Could you answer the question?

A I have no opinion.

MR. ZELMANOVITZ: Your Honor, asked and answered.

THE COURT: Asked and answered now, for sure.

MS. MORRISON: Thank you. I have no more questions.

THE COURT: Thank you, Ms. Morrison.

MS. MORRISON: Thank you, Judge.

THE COURT: Any other questioning, redirect? No.

MR. ZELMANOVITZ: No redirect.

THE COURT: All right. Thank you, sir.

THE WITNESS: Thank you, ma'am.

THE COURT: You may step down. At this point, perhaps a ten minute break would be appropriate.

MR. ZELMANOVITZ: Thank you, Your Honor.

(Recess)

THE COURT: All right.

MS. BECKERMAN: Good morning, Your Honor.

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1 THE COURT: Good morning.

2 MS. BECKERMAN: Lisa Beckerman from Akin, Gump, on
3 behalf of the Genesis Unsecured Creditors Committee.

4 THE COURT: Yes.

5 MS. BECKERMAN: Your Honor, I'm going to be turning
6 the podium over to my partner, Robert Pees, who's here with me
7 in court, and we're going to be calling our financial adviser,
8 Patrick Hurst, to testify in support of the plan.

9 THE COURT: Thank you.

10 MR. PEES: Thank you, Your Honor, and for the benefit
11 of the court reporter, my name, again, is Robert Pees of the
12 law firm of Akin, Gump, Strauss, Hauer and Feld, counsel to the
13 official Committee of Unsecured Creditors in the Genesis case.
14 And at this time, Your Honor, I'd like to call Patrick Hurst to
15 the stand.

16 THE COURT: All right.

17 THE CLERK: Place your left hand on the Bible and
18 raise your right hand.

19 P A T R I C K H U R S T, WITNESS, SWORN

20 THE CLERK: Please state your name for the record,
21 spelling your last name.

22 THE WITNESS: Patrick Hurst, H-U-R-S-T.

23 DIRECT EXAMINATION

24 BY MR. PEES:

25 Q Mr. Hurst, what do you do for a living?

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1 A I'm a managing director and head of healthcare at the
2 investment banking firm of Houlihan, Lokey, Howard and Zukin.

3 Q Okay. And could you generally describe what Houlihan,
4 Lokey, Howard and Zukin is?

5 A We're an investment banking firm, and I have three major
6 lines of business, if you will. Financial advisor where we
7 would perform valuations, for the most part. We have an
8 investment banking side that does by side sell representations,
9 as well as raising money, and we have a financial restructuring
10 group.

11 Q And what are your job responsibilities at Houlihan Lokey?

12 A As head of the healthcare group, I do all the
13 administrative aspects of running the group, as well as oversee
14 the project administration, work on a lot of the engagements,
15 as well as kind of chart the direction for the group, keeping
16 in line with industry trends.

17 Q And how long have you headed the healthcare group at
18 Houlihan Lokey?

19 A I started the group at the company about six years ago.
20 So, when I headed it, it was myself.

21 Q Okay. And in the last six years, have you focused on
22 industries other than the healthcare industry?

23 A No, and I focus entirely on healthcare and within
24 healthcare because healthcare is really divided between two
25 areas, life sciences and services, and services really being

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1 more the provider end of hospitals, home care, physicians, long
2 term care, assisted living. I focus entirely on the provider
3 side.

4 Q Thank you. And while at Houlihan, have you performed any
5 valuation analyses of healthcare companies?

6 A For the last six years in terms of healthcare valuations,
7 I probably performed over 100.

8 Q Okay. Could you briefly summarize for the Court your
9 educational background?

10 A I was undergraduate from Marquet University with a
11 specialty in Finance, and an MBA from the University of
12 Wisconsin, with a specialty in Finance.

13 Q Thank you.

14 MR. PEES: Your Honor, at this time, I'd tender Mr.
15 Hurst as a qualified expert.

16 MR. GEORGE: Your Honor, could I have an offer of
17 proof of what the testimony is? If it's valuation testimony,
18 we've already had two witnesses. I think the last witness was
19 actually almost redundant of the first witness, and I think the
20 rules would dictate that if this is just rehash of the same
21 type of testimony, it may not be helpful to Your Honor, so
22 perhaps we could have an offer of proof of what this is about.

23 MR. PEES: Mr. Hurst will testify as to his view as
24 to the value of Genesis Health Ventures on a stand alone basis.
25 I realize that there have been a number of experts who have

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1 testified, Your Honor, and I'll try to keep it short.

2 THE COURT: Um-hmm. So, we should be concerned about
3 the cumulative nature of it? Should not be?

4 MR. PEES: Well, Your Honor, there are slight
5 variations in the bottom line conclusions of the various
6 experts, and Mr. Hurst works for a financial advisor that is
7 advising a constituency that is very differently situated than
8 say the constituency of the bank group which was being advised
9 by Chilmark and Mr. Schulte who just testified. So, it's a
10 slightly different perspective, but I'm more than happy to keep
11 it short.

12 MR. WALSH: I think one other point, Your Honor,
13 although maybe the testimony can be, you know, shortened, of
14 all the valuation experts that you've heard and are going to
15 hear, only two of them spend all their time in the healthcare
16 sector, that's Mr. McGahn for the debtors, and Mr. Hurst. So,
17 I think it's important, at least, to -- you know, that his view
18 be part of the record.

19 THE COURT: I'll allow it. Go ahead, sir.

20 MR. PEES: And I take it that there are no objections
21 to his qualifications as an expert.

22 THE COURT: I take it that's the case.

23 MR. PEES: Okay.

24 THE COURT: He may testify as an expert.

25 MR. PEES: Thank you, Your Honor.

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1 BY MR. PEES:

2 Q Mr. Hurst, very briefly, what role does Houlihan Lokey
3 have in the Genesis Health Ventures bankruptcy case?

4 A We're a financial adviser to the Official Unsecured
5 Creditors Committee.

6 Q And how long has Houlihan Lokey been advising the Official
7 Creditors Committee?

8 A Since its inception in July of 2000.

9 Q Okay. And prior to that date, did Houlihan Lokey have any
10 role with respect to analyzing Genesis Health Ventures?

11 A We were engaged in May of 2000 by an informal group of
12 note holders to -- as their financial advisor regarding
13 Genesis.

14 Q Okay. And do you recall -- recall who was in that
15 informal group of note holders?

16 A American Express, American General, Federated, I believe
17 Goldman Sachs, and GMS.

18 Q And since May of 2000, have you personally been involved
19 in reviewing the financial performance and operating results of
20 Genesis Health Ventures?

21 A Yes, I have.

22 Q Okay. And could you describe the nature of that
23 involvement?

24 A Initially, our involvement was to familiarize ourselves
25 with the company, its operations in both the Institutional

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Pharmacy and the long term care, where the facilities were situated, the financial reporting, management, getting a firm understanding of the operations, and then looking as back as historical was meaningful, looking at the current operations in terms of both operating performance and financial, looking at budgets when they were prepared, looking at the plan, continuously assessing plan against budget, and then analyzing the five year plan when it was available.

Q Thank you, Mr. Hurst.

MR. PEES: At this time, Your Honor, I'd like to mark -- have marked for identification as Committee Exhibit 1, a document entitled, Presentation to the Official Committee of the Unsecured Creditors of Genesis Health Ventures, August 21, 2001. May I approach, Your Honor?

THE COURT: Please. Thank you.

MR. PEES: And Your Honor, I would note for the record that in the interest of time, I've shared that exhibit prior to coming up here with the various counsel who have actively examined valuation experts, so I think everyone has a copy. I have an extra copy if someone else would like one.

BY MR. PEES:

Q Mr. Hurst, I believe you testified that since May of 2000 you've been reviewing the financial performance and operating results of Genesis Health Ventures. Have you now reached any conclusion as to the current value of Genesis Health Ventures

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1 on a stand alone basis?

2 A Yes, I have.

3 Q And what is your conclusion?

4 A Conclusion of value, enterprise value of Genesis on a
5 stand alone basis at 1,375,000,000.

6 Q And Mr. Hurst, is that conclusion reflected in the report
7 that's been marked as Committee Exhibit one?

8 A Yes, it is.

9 Q Okay. And is the support for that conclusion also
10 reflected in that report?

11 A The basis is in the context of the report.

12 Q Okay. I now would like to ask you some questions about
13 that report. First of all, how did you go about preparing the
14 report?

15 A Since we have been familiar with the company for the past
16 12, 15 months, for this report, what we did is we updated the
17 financial information for the company for the June time period,
18 as well as had conversations with the CFO and controller of the
19 company to get an understanding of the preliminary July
20 numbers, as well as what the company's estimates for August and
21 September would be.

22 We asked questions surrounding that in terms of
23 issues that we had known to exist in the past, and then, looked
24 at that against the plan, and noting where it was coming out
25 with regards to the plan, ask the company questions surrounding